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be stated that the case of *State v. de Rance* (1882) 34 La. Ann. 186, cited on page 637 as representing the law of Louisiana, has now been overruled, Louisiana now requiring insanity to be proved, not beyond a reasonable doubt, but merely by a preponderance of the evidence. *State v. Lyons* (1904) 113 La. 959, 987.

The author is to be congratulated on making clear the distinction between the relevancy and the competency of evidence, and on showing that there is much evidence that is entirely relevant in the sense of having a logical bearing on the issue, which may be entirely inadmissible. On the whole, the subject of criminal evidence is as well treated as could be expected in so small a compass.

It can justly be said of the book that it will prove a useful one both for practitioner and student. It has the limitations of all synopses of many details, and one cannot expect to derive from such a book much depth of understanding unless he supplements it by a study of the original decisions on which it is based. Nevertheless, the book is a good and competent guide through a technical field where guidance is always needed.

Ralph W. Gifford.

GUIDE TO THE LAW AND LEGAL LITERATURE OF ARGENTINA, BRAZIL, AND CHILE. By EDWIN M. BORCHARD. Washington: GOVERNMENT PRINTING OFFICE. 1917. pp. 523.

All nations of Latin America are characterized by a well-defined peculiarity. While in the relations of private law they cling to the ancient Roman law, resisting all innovations of modern life, they have, in public relations, adopted—*mutatis mutandis*—the constitutional institutions of the United States of America. Thus, while the study of private law has in general found, except, perhaps, in Brazil, but few cultivators, although proficient lawyers of uncommon merits have been produced, that of public law has developed to such an extent as to form a literature both copious and of the first order. This is due to the fact that, while in private relations society has kept to a primitive agricultural form,—only later following the path of active commercial life, without having, however, even at this time, a real and great industry to boast of,—in the fields of public activities, on the contrary, since the first years of independence of the several republics, the struggle between the people aspiring to liberty and the successive tyrants who wished to retain their power by all means has awakened a great love for the study of constitutional law, attracting to it the best intellects.

Argentina, Brazil, and Chile, whose juridical evolution the author of this book has studied with great knowledge of the subject, have each had distinct origins. Argentina, after freeing herself from Spanish bondage in 1810, followed a path of agitations which had as their principal aim the winning of public liberties. Brazil, having severed the ties that united her to her mother country, was raised, by determination of the kings of Portugal themselves—since Dom Joao, escaping from Napoleon's troops, took refuge in his colony and later proclaimed himself its king,—to the dignity of a nation, and from that time the only political aim of the new state was the maintenance of order. Chile organized herself into a republic, but only in name, as for many years she submitted to a legal dictator. The principles of American liberty and constitutional order nevertheless now form the solid basis of public life in those three countries.

However, their distinct political origins gave rise to different tendencies in private law. Brazil, which, during Dom Pedro's reign,

had enjoyed a long peace without political agitations and had as her only aims the maintenance of the existing order of things and the respect of classes and castes, allowed slavery to continue within her boundaries until the year 1888, and did not adopt the Civil Code until the first day of January, 1917, although this had been prepared a long time before. On the other hand, while the legislative reforms were progressing so slowly, there arose, as though representing a protest of the national juridical spirit, the great students of private law, possibly the most powerful of whom Latin America can ever boast. Another contradiction, which only the political history of that country can explain, is that, while civil legislation was all in a tangle, as it was, following the so-called "*Código Philippino*"—a digest of old Portuguese laws,—a Code of Commerce had been compiled, it being the first American code, because, although before 1850, the year of its promulgation, there existed other codes, such as the Haitian of 1826, that of Paraguay of 1834, and that of Santo Domingo of 1845, the first and last ones were but reproductions of the French Civil Code and the second of the Spanish Civil Code.

Chile had her Civil Code in 1857. It followed the principles of the French Code in a large number of articles, but it was drafted in a masterly manner and with broad views. The principle of equality of rights for both citizens and foreigners with regard to civil laws for the first time found its application in this Code.

Argentina did not collect her civil laws into one code until after Chile, in 1871, notwithstanding the fact that the constitution of 1853 had directed the public authorities to frame it as quickly as possible. This Code is the largest we know, for it contains 4,051 articles, and it was compiled with more consideration for the juridical literature of Europe than the previous laws of the country. It is therefore mostly theoretical.

In those countries where the Roman law still predominates, civil legislation forms the basis of all private relations and is therefore an adjunct and subsidiary to all other codes or laws. Hence the great importance of the Civil Code.

One identical phenomenon we find in these three nations, namely, that the codification of civil legislation was virtually the work of a single jurist in each country: Dr. Velez Sarsfield in Argentina, Dr. Texeira de Freitas in Brazil, and the famous writer Andres Bello in Chile. The Civil Code presented by Velez was neither discussed nor amended by the legislative chambers, and this was the cause of all its deficiencies.

Commercial legislation falls short of the requirements of our commercial and industrial times. True it is that all matters affecting corporations, neglected until recently, are now becoming the subject of amendment in the Codes of Commerce, but the problems of the strenuous life of business have not yet been attacked with the vigor which their importance demands. In this respect Latin America generally follows in the scientific footsteps of France, Italy, and Spain, which are rather tardy in this kind of legislation.

Notwithstanding the federal, or quasi-federal, systems of Argentina and Brazil, the basic legislation of each applies uniformly to the entire nation. The laws of procedure, on the other hand, vary in the different states of Argentina, and the administrative legislation varies in both countries.

The author has made a brief but clear exposition of the subject and has furnished a great help to the student who contemplates a work of investigation. The whole legislation is summarized, special

laws are brought to notice, and their sources clearly traced. The works published on the subject have been diligently catalogued, and the author has sometimes been led by his own scrupulosity to quote even publications of very limited importance.

However, if we were allowed to make a remark on this diligent "Guide," we would say that a little critical study on the part of the author would not have been out of place. He then would have taken those among his readers who are not familiar with the subject through more definite paths, and above all this very useful book of his would have assumed a more scientific character and one which it really deserves, since this publication has fulfilled that worthy task which we presume the author had taken upon himself to perform.

Orestes Ferrara.

REPORTS OF THE AMERICAN BAR ASSOCIATION. Vol. XLII. 1917. Baltimore: LORD BALTIMORE PRESS. pp. 970.

This volume presents the picture of the American Bar Association at work. The papers which it contains are naturally of uneven merit and interest. M. Gaston De Leval's restrained but graphic recital of "Prussian Law As Applied in Belgium" deepens our sympathy and our indignation. Its quiet moving power presents a welcome contrast to the oratorical striving for effect which characterizes Professor McElroy's speech on "The Representative Idea and the War." Mr. Hampton L. Carson's essay on the great figures in legal scholarship contains the charm and learning with which his other writings have made us familiar. The sane and vigorous address of Mr. Hughes on "War Powers Under the Constitution" deserves reading and heeding by those who would exalt the theories of states rights and of *laissez faire* in war time. The report of the Committee on Noteworthy Changes in Statute Law continues the valuable summaries of recent legislation which Mr. Parkinson has given us for several years. Professor Cook's plea for the improvement of legal education and of standards for admission to the bar deserves more attention from the profession than it is likely to receive.

Miss Claghorne's study of "Crime and Immigration" is easily the most scientific contribution in the volume, as the addresses of Senator Hardwick and of President Sutherland are the least. Miss Claghorne's careful array and analysis of concrete conditions disclosed by a clinical examination of immigrants admitted to Sing Sing prison contrasts strikingly in method with the fulminations of Senator Hardwick against congressional interdiction of interstate commerce in lottery tickets and the products of child labor, and with Ex-Senator Sutherland's Jeremiad against legislation in general. The Lottery Case, says Senator Hardwick, is "the most unsound of all the decisions of the great court that pronounced it, . . . productive of more harmful and dangerous results . . . than any judicial pronouncement in all our history save, perhaps, one" (page 220). "How much longer", he inquires, "can our wondrous dual system of government . . . withstand these persistent attacks, these insidious assaults upon its integrity?" (page 224). One misses in the Senator's speech the delight which might have been given by a not too extravagant use of the gentle art of under-statement.

A few excerpts will convey President Sutherland's message. "We have developed", he says, "a mania for regulating people" (page 201). The mania is on the increase. "Never before have the business activities of the people been so beset and bedevilled with vexatious statutes, prying commissions, and governmental intermeddling of